

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA

v.

ROBERT HUNTER BIDEN,

Defendant.

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Criminal Action No. 1:23-cr-00061-MN

**MR. BIDEN'S REPLY IN SUPPORT OF HIS MOTION *IN LIMINE* TO
EXCLUDE ANY STATEMENTS HE MADE AT THE JULY 26, 2023
HEARING IN THIS MATTER**

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Counsel for Robert Hunter Biden

Mr. Biden, by and through undersigned counsel, respectfully submits this Reply in support of his Motion *in limine* to exclude any statements he made at the July 26, 2023 hearing in this matter. (DE 137.) The Special Counsel responded that he does not intend to introduce statements outside the limits of Federal Rule of Evidence 410 and Federal Rule of Criminal Procedure 11(f). (DE 170 at 1.) Mr. Biden agrees, and that should mean that none of the statements are admissible. For the avoidance of any doubt, Rule 410(b)'s exception, allowing prosecutors to use Rule 11(f) statements in cases charging false statements, does not apply here, and has no bearing on this case. Such statements are only admissible "in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present."¹ Fed. R. Evid. 410(b)(2). Mr. Biden is not being charged with false statements he made under oath in connection with his plea hearing on July 26 in this Court. Rather, the alleged false statement in this case stems from that made on a firearm transactions record (Form 4473) on October 12, 2018. Accordingly, Mr. Biden respectfully requests that this Court grant his motion *in limine* to exclude any statements he made at the July 26, 2023 hearing.

Dated: May 24, 2024

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Respectfully submitted,

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¹ The Special Counsel previously noted this is the "sole exception" for admissibility of statements governed by Federal Rule of Criminal Procedure 11(f) and FRE 410. (DE 69 at 18 n.7.)

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2024, I filed the foregoing Reply in support of Mr. Biden's Motion *in Limine* with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Abbe David Lowell

Abbe David Lowell

Counsel for Robert Hunter Biden